

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

Criminal
No. 05-30042-MLW

RICARDO DIAZ and CESAR CRUZ

PRETRIAL ORDER

After an Initial Pretrial Conference held on MARCH 14, 2006, it is hereby ORDERED that:

1. A hearing on any motion to dismiss, suppress, sever, or other issue that must be resolved prior to trial will be held on _____, at _____ and will continue on _____, at _____ if necessary.
2. Trial shall commence on MAY 1, 2006, at 9:00 AM.
3. The government shall by APRIL 7, 2006,¹ disclose to the defendant:
 - (a) The exculpatory information identified in Local Rule 116.2 that has not been previously produced; and
 - (b) A general description (including the approximate date, time, and place) of any crime, wrong, or act the government proposes to offer pursuant to Fed. R. Evid. 404(b).
4. Pursuant to the agreement of the parties, statements (as defined in 18 U.S.C. § 3500(e) and Fed. R. Crim. P. 26.2(f)) of witnesses each party intends to call in its or his case-in-chief shall be produced by APRIL 20, 2006.

¹This date will ordinarily be 21 days before trial unless the declination procedure provided by L.R. 116.6 has been invoked before the Initial Pretrial Conference. See L.R. 117.1(A)(4). The judge who will preside at trial may, however, establish a date different from any date provided by L.R. 117.1 if the judge determines that there are factors in the particular case that make it in the interests of justice to do so. See L.R. 117.1(B).

[kptrlo.]

5. The parties shall by APRIL 11, 2006 file proposed voir dire questions, proposed jury instructions, any motions in limine with supporting memoranda, and a trial brief.² Responses to any motion in limine shall be filed by APRIL 20, 2006 .

6. The government shall by APRIL 20, 2006 :³

(a) Provide the defendant with the names and addresses of witnesses the government intends to call at trial in its case-in-chief. If the government subsequently forms an intent to call any other witness, the government shall promptly notify the defendant of the name and address of that prospective witness.

(b) Provide the defendant with copies of the exhibits and a pre-marked list of exhibits the government intends to offer in its case-in-chief. If the government subsequently decides to offer any additional exhibit in its case-in-chief, the government shall promptly provide the defendant with a copy of the exhibit and a supplemental exhibit list.

7. The defendant shall by APRIL 25, 2006 :⁴

(a) Provide the government with the names and addresses of the witnesses the defendant intends to call in his case-in-chief. If the defendant subsequently forms an intent to call any other witness in his case-in-chief, he shall promptly notify the government of the name and address of that witness.

(b) Provide the government with copies of the exhibits and a premarked list of the exhibits the defendant intends to offer in his case-in-chief. If the defendant subsequently decides to offer any additional exhibits in his case-in-chief, he shall promptly provide the government with a copy of the exhibit and a supplemental exhibit list.

²The reference to a trial brief should be deleted if it is not appropriate to require that one be filed. See L.R. 117.1(A)(7).

³Absent an objection, this date will ordinarily be 7 days before trial. See L.R. 117.1(A)(8). However, if either party objects to the pretrial disclosure of its witnesses, the court will decide whether such disclosure should be ordered. Id.

⁴Absent an objection, this date will ordinarily be 3 days before trial. See L.R. 117.1(A)(9). However, if either party objects to the pretrial disclosure of its witnesses, the court will decide whether such disclosure should be ordered. Id.

8. The parties shall by APRIL 25, 2006, file a written stipulation of any facts that they agree are not in dispute.

9. The Second Pretrial Conference shall be held on APRIL 26, 2006,⁵ at 2:00 PM. The defendant shall be present for the pre-trial conference.

10. The following period(s) of time are excluded for Speedy Trial Act purposes, pursuant to 18 U.S.C. § 3161(h), for the reasons stated at the Initial Pretrial Conference:⁶ MARCH 14, 2006 through APRIL 26, 2006.

11. Government shall by MARCH 21, 2006 produce the prison phone call tapes to the defendants. Any motion to suppress the statements contained on the tapes shall be filed by April 5, 2006. Any response shall be filed by April 19, 2006.

12. The parties shall, by MARCH 30, 2006, confer and report as to whether a trial will be necessary to resolve the case.

March 17, 2006
DATE

/s/ Mark L. Wolf
UNITED STATES DISTRICT COURT

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[kptrlo.]

⁵The Second Pretrial Conference will ordinarily be held not more than 7 days before the trial date. See L.R. 117.1(A)(11).

⁶See L.R. 112.2(B)